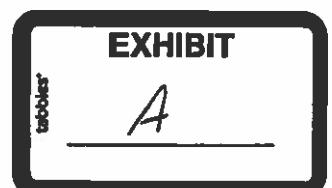


EXHIBIT "A"

Exhibits Required by Local Rule 81

- Exhibit A-1 Copy of Service of Process – Autotransportes Varela Davila SA De CV
- Exhibit A-2 Copy of Service of Process – Fermin Rodriguez
- Exhibit A-3 Copy of Plaintiff's Original Petition
- Exhibit A-4 Copy of Defendants' Original Answer
- Exhibit A-5 Notice to Plaintiff's Counsel of Filing Removal of matter to Federal Court
- Exhibit A-6 Copy of Civil Docket/ Case Summary
- Exhibit A-7 Index of Parties and Counsel



NOTICE: Pursuant to TRCP 126: Statement of Inability to Afford Payment**of Court Costs or an Appeal Bond filed = NO****C-4704-18-G****370TH DISTRICT COURT, HIDALGO COUNTY, TEXAS
CITATION****THE STATE OF TEXAS**

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

Autotransportes Varela SA De CV
By serving: Fernando Varela Davila
2201 S. Jackson Road, Building 1, Apartment 7
Pharr, Texas 78577

You are hereby commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION (WITH DISCOVERY)** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Noe Gonzalez, 370th District Court of Hidalgo County, Texas** at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on this the 19th day of December, 2018 and a copy of same accompanies this citation. The file number and style of said suit being **C-4704-18-G, REYNALDO RODRIGUEZ VS. AUTOTRANSPORTES VARELA DAVILA SA DE CV AND FERMIN RODRIGUEZ**

Said Petition was filed in said court by Attorney **MICHAEL R. COWEN, 6243 IH-10 WEST STE 801 SAN ANTONIO TX 78201**.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 2nd day of January, 2019.

LAURA HINOJOSA, DISTRICT CLERK
100 N. CLOSNER, EDINBURG, TEXAS
HIDALGO COUNTY, TEXAS

KIMBERLY HINOJOSA, DEPUTY CLERK

EXHIBIT

tabber

A-1

C-4704-18-G
OFFICER'S RETURN

Came to hand on 2 of DECEMBER, 20119 at 2:00 o'clock P.m. and executed in HIDALGO County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE
<u>Autotransportes Varela</u>	<u>1-2-19</u>	<u>3:30pm</u>	<u>7500 SOUTH JACKSON</u>

FERNANDO VALETA DANI Pharr, Texas
And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is Eloy BRAVO, my date of birth is 02-02-1961 and the address is 14080 Falcon Ridge Road #321, and I declare under penalty of perjury that the foregoing is true and correct. S.A. T

EXECUTED in Hidalgo County, State of Texas, on the 2 day of JANUARY, 20118.

Eloy
Declarant"

PSL 15613 - 10/31/2020

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

**NOTICE: Pursuant to TRCP 126: Statement of Inability to Afford Payment
of Court Costs or an Appeal Bond filed = NO**

C-4704-18-G

370TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

Chairman of Texas Transportation Commission

By serving The Chairman, J. Bruce Bugg, Jr.

125 E. 11th Street

Austin, Texas 78701-2483

In turn serving:

Fermin Rodriguez

1001A Calle Llano Alto Colonia

Riveras Del Bosque St., Reynosa, MX 88615

You are hereby commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION (WITH DISCOVERY)** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Noe Gonzalez, 370th District Court of Hidalgo County, Texas** at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on this the 19th day of December, 2018 and a copy of same accompanies this citation. The file number and style of said suit being C-4704-18-G, **REYNALDO RODRIGUEZ VS. AUTOTRANSPORTES VARELA DAVILA SA DE CV AND FERMIN RODRIGUEZ**

Said Petition was filed in said court by Attorney MICHAEL R. COWEN, 6243 IH-10 WEST STE 801 SAN ANTONIO TX 78201.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 2nd day of January, 2019.

LAURA HINOJOSA, DISTRICT CLERK
100 N. CLOSNER, EDINBURG, TEXAS
HIDALGO COUNTY, TEXAS

KIMBERLY HINOJOSA, DEPUTY CLERK

EXHIBIT

A-2

C-4704-18-G
OFFICER'S RETURN

Came to hand on 2 of JANUARY, 20119 at 2:00 o'clock P.m. and executed in TRAVIS County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE
<u>FERMIN RODRIGUEZ</u>	<u>1-9-19</u>	<u>9:00AM</u>	<u>125 E. 11th STREET</u> <u>AUSTIN, TEXAS</u>

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is Eloy Bravo, my date of birth is 02-02-1961 and the address is 14080 Naconocee Rd, S.A. Tr, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in TRAVIS County, State of Texas, on the 9 day of JANUARY, 20119.

Eloy

Declarant"

PSC 15613 10/31/2020

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<input type="checkbox"/> Complete Items 1, 2, and 3. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		1. Article Addressed to: FERNANDO RODRIGUEZ TX Transportion Commission 125 E. 11th STREET AUSTIN, TEXAS 78701	
2. Recipient Address: Hidalgo County Sheriff's Office Clerks Reviewed By: Kim Hinojosa X		3. Delivery Method: Priority Mail Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Delivery Restricted Delivery <input type="checkbox"/> Mail Restricted Delivery (over \$500)	
4. Signature: 		5. Signature Confirmation: <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Signature Confirmation: Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery			
Domestic Return Receipt			

U.S. Postal Service													
CERTIFIED MAIL® RECEIPT													
Domestic Mail Only													
OFFICIAL USE													
For delivery information, visit our website at www.usps.com													
Postmark _____ Here _____													
Postage _____													
Certified Mail Fee													
<table border="1"> <tr> <td>Enter Services & Fees (check box, and \$ as appropriate)</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Return Receipt (franchise)</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Return Receipt (electronic)</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Required</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td>\$ _____</td> </tr> </table>		Enter Services & Fees (check box, and \$ as appropriate)		<input type="checkbox"/> Return Receipt (franchise)	\$ _____	<input type="checkbox"/> Return Receipt (electronic)	\$ _____	<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____	<input type="checkbox"/> Adult Signature Required	\$ _____	<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Enter Services & Fees (check box, and \$ as appropriate)													
<input type="checkbox"/> Return Receipt (franchise)	\$ _____												
<input type="checkbox"/> Return Receipt (electronic)	\$ _____												
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____												
<input type="checkbox"/> Adult Signature Required	\$ _____												
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____												
Total Postage and Fees													
\$ <u>1.25</u>													
\$ <u>1.25</u> <i>PERMITTING 2-1X TRANSPORTATION</i>													
Street and Apt. #, or P.O. Box <u>NO STREET</u>													
City, State <u>AUSTIN, TEXAS 78701</u>													
Scan Reverse for Instructions													

CAUSE NO. C-4704-18-G

REYNALDO RODRIGUEZ

VS.

**AUTOTRANSPORTES VARELA
DAVILA SA DE CV AND
FERMIN RODRIGUEZ**

IN THE DISTRICT COURT

JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION (WITH DISCOVERY)

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Reynaldo Rodriguez files this Plaintiff's Original Petition, complaining of Defendants Fermin Rodriguez and Autotransportes Varela Davila SA De CV. For cause of action, Plaintiff would show the Honorable Court as follows:

I.

DISCOVERY CONTROL PLAN

Plaintiff intends to conduct discovery pursuant to a level three discovery control plan.

II.

PARTIES

Plaintiff Reynaldo Rodriguez is an individual residing in Texas.

Defendant Fermin Rodriguez resides in Mexico, and may be served with process through the Chairman of Texas Transportation Commission, pursuant to Texas Civil Practice and Remedy Code § 17.062. The Chariman, J. Bruce Bugg, Jr., may be served at 125 E. 11th Street, Austin, Texas 78701-2483. Defendant Fermin Rodriguez's last known address is 1001A Calle Llano Alto Colonia, Riveras Del Bosque St., Reynosa, MX 88615.

Defendant Autotransportes Varela Davila SA De CV is a foreign entity doing business in the State of Texas and may be served through its process agent designated under the Motor Carrier Act, Fernando Varela Davila, 2201 S. Jackson Road, Building 1, Apartment 7, Pharr, Texas 78577.

EXHIBIT

tabber

A-3

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III.

VENUE

Venue is proper in Hidalgo County because all or a substantial part of the events or omissions giving rise to this claim occurred in the county. Texas Civ. Prac. & Rem. Code § 15.002(a)(1)

IV.

FACTS

Defendant Autotransportes Varela Davila SA De CV is a motor carrier licensed by and registered with the Federal Motor Carrier Safety Administration. Defendant hired, qualified, and trained Fermin Rodriguez as a truck driver. At all times relevant to this lawsuit, Defendant Fermin Rodriguez was acting in the course and scope of his actual and/or statutory employment with Defendant Autotransportes Varela Davila SA De CV.

On or about April 06, 2018, Reynaldo Rodriguez was traveling northbound on International Parkway in McAllen, TX. Defendant Fermin Rodriguez, who was driving a freightliner owned by Defendant Autotransportes Varela Davila SA De CV, was attempting to turn onto International Parkway from a private drive. Suddenly, and without warning, Defendant Fermin Rodriguez attempted to turn right onto International Parkway and collided with Plaintiff's vehicle. As a proximate result of the collision, Plaintiff Reynaldo Rodriguez suffered injuries and damages.

V.

CAUSE OF ACTION

Defendant Fermin Rodriguez was negligent in the operation of the tractor-trailer. Specifically, Defendant Fermin Rodriguez . As a direct and proximate result of this negligence, Plaintiff sustained personal injuries. Defendant Autotransportes Varela Davila SA De CV is vicariously liable for the negligence of Defendant Fermin Rodriguez under the statutory employment doctrine as well as the doctrine of respondeat superior.

Based on the facts of this wreck, it appears that Defendant Fermin Rodriguez may have been fatigued or driving in violation of the hours-of-service regulations. It further appears that Defendant Autotransportes Varela Davila SA De CV may have been negligent in its entrustment of a tractor-

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trailer to Defendant Fermin Rodriguez, and in the qualification, hiring, training, supervision, and retention of Defendant Fermin Rodriguez.

VI.

DAMAGES

Plaintiff seeks to recover the following elements of damages, which were proximately caused by Defendant's negligence:

1. Medical care, past and future;
2. Lost wages and earning capacity, past and future;
3. Physical impairment, past and future;
4. Physical pain, emotional distress, and mental anguish, past and future; and
5. Disfigurement, past and future.

Plaintiff also seeks to recover prejudgment interest, post-judgment interest, and court costs. Plaintiff's damages exceed the Court's jurisdictional minimum and exceed \$75,001.00. Pursuant to Texas Rule of Civil Procedure 47(c), Plaintiff seeks monetary relief of over \$200,000.00 but not more than \$1,000,000.00.

VII.

REQUEST FOR DISCLOSURE

Defendant Fermin Rodriguez is requested to disclose, within 50 days of service of this request, the information or material described in Rule 194.2(a)-(l) of the Texas Rules of Civil Procedure.

Defendant Autotransportes Varela Davila SA De CV is requested to disclose, within 50 days of service of this request, the information or material described in Rule 194.2(a)-(l) of the Texas Rules of Civil Procedure.

VIII.

INTERROGATORIES TO DEFENDANT FERMIN RODRIGUEZ

Plaintiff, pursuant to Tex. R. Civ. Procedure 196 and 197 propounds the following Interrogatories to Defendant Fermin Rodriguez. Defendant's response is due within fifty (50) days

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from the date of service thereof. Plaintiff also requests that Defendant continue to supplement Defendant's responses to these Interrogatories as provided for by the Rules.

Interrogatory 1. Please state how you contend the collision in question occurred.

RESPONSE:

Interrogatory 2. Please state the positions held, general job descriptions, and lengths of employment of Fermin Rodriguez at the time of the collision in question.

RESPONSE:

Interrogatory 3. Please state the full extent of any training, education, or experience concerning driving techniques or principles Fermin Rodriguez has received.

RESPONSE:

Interrogatory 4. Was Fermin Rodriguez acting in the course and scope of his employment with Autotransportes Varela Davila SA De CV at the time of the collision made the basis of this lawsuit? If you are contending that Fermin Rodriguez was not acting in the course and scope of employment for Autotransportes Varela Davila SA De CV at the time of the collision, please state exactly why you are making such contention.

RESPONSE:

Interrogatory 5. If the vehicle driven by Fermin Rodriguez that was involved in the collision in question was not owned by you, please state the vehicle owner's name, address and telephone number.

RESPONSE:

Interrogatory 6. Please list all traffic accidents in which Fermin Rodriguez has been involved, including the location, city, county, state and any violations for which he was cited in connection with any traffic accidents.

RESPONSE:

Interrogatory 7. Please give a description of all traffic violations for which Fermin Rodriguez has been cited, including the date, city, county, state, offense alleged and ultimate disposition of such citation.

RESPONSE:

Interrogatory 8 With respect to collisions or accidents involving one of Autotransportes Varela Davila SA De CV's vehicles and/or a driver employed by you or under contract with Autotransportes Varela Davila SA De CV, please state:

- a. When the driver is required to make a report and to whom;
- b. A description of any written report required to be made by any person with Autotransportes Varela Davila SA De CV and/or the driver;
- c. Where and in whose custody such reports are kept;
- d. When a driver must submit for a drug test by giving a urine sample; and

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e. When such report must be reported to the federal government.

RESPONSE:

Interrogatory 9.

Did Fermin Rodriguez receive any citations or tickets as a result of the collision in question? If so, what was the outcome? If Fermin Rodriguez paid the ticket, did Fermin Rodriguez plead guilty? What court did Fermin Rodriguez have to appear in or call to resolve the citation or ticket?

RESPONSE:

Interrogatory 10.

Do you contend that someone other than Fermin Rodriguez (including but not limited to Plaintiff) did or failed to do something that contributed to the wreck made the basis of this lawsuit? If so, please state what you claim that person did or failed to do, or how the action or inaction caused or contributed to the wreck.

RESPONSE:

Interrogatory 11.

Please state the date on which you first subjectively believed that there was a substantial chance that litigation would arise from the wreck made the basis of this lawsuit? What facts gave rise to your subjective belief?

RESPONSE:

Interrogatory 12:

What does Autotransportes Varela Davila SA De CV do to review drivers' logs to determine whether they are accurate and whether they comply with the hours-of-service regulations? If Autotransportes Varela Davila SA De CV uses any type of computer program or third-party service to audit logs, please identify the program or service.

RESPONSE:

Interrogatory 13:

Does Autotransportes Varela Davila SA De CV use any type of GPS system or other computerized device (such as OmniTRACS, Qualcomm or XATA) to monitor the movements and/or speed of its tractors and/or trailers? If so, please describe the system or device, including its name, what data is generated, where the data is stored, and how long the data is retained.

RESPONSE:

Interrogatory 14:

For any cell phone used by or issued to Fermin Rodriguez during the time period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck, please identify the cell phone carrier and the cell phone number.

RESPONSE:

Interrogatory 15:

Please identify all social media accounts used by Fermin Rodriguez at any time during the time period from one hundred eighty (180) days before the wreck to the present, and state the username or other name used for each social media account. The scope of this request includes, but is not limited to, Facebook, Twitter, YouTube, Snapchat, Google+, MySpace, and any other social media platform.

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RESPONSE:

Interrogatory 16: Please identify all e-mail addresses used by Fermin Rodriguez at any time during the time period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.

RESPONSE:

IX.

**INTERROGATORIES TO DEFENDANT AUTOTRANSPORTES
VARELA DAVILA SA DE CV**

Plaintiff, pursuant to Tex. R. Civ. Procedure 196 and 197 propounds the following Interrogatories to Defendant Autotransportes Varela Davila SA De CV. Defendant's response is due within fifty (50) days from the date of service thereof. Plaintiff also requests that Defendant continue to supplement its responses to these Interrogatories as provided for by the Rules.

Interrogatory 1. Please state how you contend the collision in question occurred.

RESPONSE:

Interrogatory 2. Please state the positions held, general job descriptions, and lengths of employment of Fermin Rodriguez at the time of the collision in question.

RESPONSE:

Interrogatory 3. Please state the full extent of any training, education, or experience concerning driving techniques or principles Fermin Rodriguez has received.

RESPONSE:

Interrogatory 4. Was Fermin Rodriguez acting in the course and scope of his employment with Autotransportes Varela Davila SA De CV at the time of the collision made the basis of this lawsuit? If you are contending that Fermin Rodriguez was not acting in the course and scope of employment for Autotransportes Varela Davila SA De CV at the time of the collision, please state exactly why you are making such contention.

RESPONSE:

Interrogatory 5. If the vehicle driven by Fermin Rodriguez that was involved in the collision in question was not owned by you, please state the vehicle owner's name, address and telephone number.

RESPONSE:

Interrogatory 6. Please list all traffic accidents in which Fermin Rodriguez has been involved, including the location, city, county, state and any violations for which he was cited in connection with any traffic accidents.

RESPONSE:

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Interrogatory 7. Please give a description of all traffic violations for which Fermin Rodriguez has been cited, including the date, city, county, state, offense alleged and ultimate disposition of such citation.

RESPONSE:

Interrogatory 8 With respect to collisions or accidents involving one of Autotransportes Varela Davila SA De CV's vehicles and/or a driver employed by you or under contract with Autotransportes Varela Davila SA De CV, please state:

- a. When the driver is required to make a report and to whom;
- b. A description of any written report required to be made by any person with Autotransportes Varela Davila SA De CV and/or the driver;
- c. Where and in whose custody such reports are kept;
- d. When a driver must submit for a drug test by giving a urine sample; and
- e. When such report must be reported to the federal government.

RESPONSE:

Interrogatory 9. Did Fermin Rodriguez receive any citations or tickets as a result of the collision in question? If so, what was the outcome? If Fermin Rodriguez paid the ticket, did Fermin Rodriguez plead guilty? What court did Fermin Rodriguez have to appear in or call to resolve the citation or ticket?

RESPONSE:

Interrogatory 10. Do you contend that someone other than Fermin Rodriguez (including but not limited to Plaintiff) did or failed to do something that contributed to the wreck made the basis of this lawsuit? If so, please state what you claim that person did or failed to do, or how the action or inaction caused or contributed to the wreck.

RESPONSE:

Interrogatory 11. Please state the date on which you first subjectively believed that there was a substantial chance that litigation would arise from the wreck made the basis of this lawsuit? What facts gave rise to your subjective belief?

RESPONSE:

Interrogatory 12: What does Autotransportes Varela Davila SA De CV do to review drivers' logs to determine whether they are accurate and whether they comply with the hours-of-service regulations? If Autotransportes Varela Davila SA De CV uses any type of computer program or third-party service to audit logs, please identify the program or service.

RESPONSE:

Interrogatory 13: Does Autotransportes Varela Davila SA De CV use any type of GPS system or other computerized device (such as OmniTRACS, Qualcomm or XATA) to monitor the movements and/or speed of its tractors and/or trailers? If so, please describe the system or device, including its name, what data is

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generated, where the data is stored, and how long the data is retained.

RESPONSE:

Interrogatory 14: For any cell phone used by or issued to Fermin Rodriguez during the time period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck, please identify the cell phone carrier and the cell phone number.

RESPONSE:

Interrogatory 15: With respect to the load being hauled at the time of the collision, please state:

- a. The name, address, and telephone number of the shipper;
- b. The name, address, and telephone number of the receiver;
- c. The name, address, and telephone number of any broker associated with the load or trip; and
- d. The name, address, and telephone number of any other motor carriers associated with the load or trip, including any motor carriers that brokered or subcontracted or assigned the load to Autotransportes Varela Davila SA De CV or Fermin Rodriguez.

RESPONSE:

Interrogatory 16: Please identify all dispatchers who communicated with Fermin Rodriguez during the time period starting seven days before the wreck and ending the day after the wreck. For each dispatcher, please state the dispatcher's name, last known address, last known telephone number, last known e-mail address, and whether the dispatcher is still employed with Autotransportes Varela Davila SA De CV.

RESPONSE:

Interrogatory 17: How did Fermin Rodriguez communicate with dispatch and others at Autotransportes Varela Davila SA De CV? That is, did it use the telephone, Qualcomm, text messages, or some other method or combination of methods?

RESPONSE:

X.

REQUESTS FOR PRODUCTION TO ALL DEFENDANTS

Pursuant to Rule 196, Texas Rules of Civil Procedure, Plaintiff requests that, within the time prescribed by law, Defendants Fermin Rodriguez and Autotransportes Varela Davila SA De CV produce and permit Plaintiff to inspect and copy the documents and things described in the requests

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below, and as instructed below. Plaintiff requests that Defendants produce the documents at the office of Cowen | Peacock, 6243 IH-10 West, Suite 801, San Antonio, Texas 78201.

1. Any and all documents, including but not limited to invoices, repair bills or estimates, reflecting the damage to any vehicle involved in the collision in question.
2. Any and all photographs, videotapes, or other depictions of any vehicle involved in the collision in question.
3. Any and all photographs of the scene of the collision in question.
4. Any and all photographs that you intend to use at trial.
5. Any and all photographs, videotapes or other depictions of Plaintiff.
6. Any and all photographs, videotapes or other depictions of Fermin Rodriguez.
7. Any and all witness statements.
8. Any and all statements from Plaintiff.
9. Any and all statements from any Defendant, Defendant's agents or employees relating to the incident in question.
10. Any and all documents related to Fermin Rodriguez's employment with Autotransportes Varela Davila SA De CV.
11. Any and all documents related to the maintenance, repair, acquisition, loads, operation or travel of the vehicle involved in the collision in question. These documents should include, but are not limited to, trip sheets, fuel receipts, work orders, bills of lading, maintenance records, operations manuals, vehicle condition reports and other documents obtained regarding the vehicle.
12. Produce any and all documents regarding any unemployment claim, worker's compensation claim or any other type of claim filed by Fermin Rodriguez relating to his employment with Autotransportes Varela Davila SA De CV.
13. Any and all pictures, drawings, photographs or videotapes in your possession or subject to your control that are relevant and material to this cause of action, including but not limited to those showing the Plaintiffs, those showing any of the vehicles, or any part of the vehicles, involved in the collision in question, or those showing the location of such collision.
14. Any information relating to any conviction to be used for impeachment purposes against any party, witness, and/or person with knowledge of facts named in discovery information provided to you before trial. Please include the name of the person convicted, the offense for which he or she was convicted, the year of such conviction, the court of such conviction and the sentence involved.
15. Any written, taped or mechanically reproduced statement heretofore made of Plaintiff, Defendants, and/or Defendants' agents or employees.
16. Any records or documentation (medical or non-medical) concerning Fermin Rodriguez that

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would indicate whether Fermin Rodriguez was using alcohol and/or drugs (including prescription or nonprescription, legal or illegal drugs) within forty-eight (48) hours prior to the collision in question.

17. Any records or documentation (medical or non-medical) concerning Fermin Rodriguez that would indicate that he had alcohol and/or drugs (including prescription or nonprescription, legal or illegal), or metabolites of alcohol and/or drugs (including prescription or nonprescription, legal or illegal) in the bloodstream or urine at the time of or the time following the collision in question.
18. Any records or documentation (medical or non-medical) that would indicate that Fermin Rodriguez was a regular user of any illegal substance(s) within one (1) year preceding the collision in question.
19. A color copy of the front and back of Fermin Rodriguez's current driver's license and any commercial license.
20. A copy of any company vehicle use records for the one hundred eighty (180) days preceding and including the date of the collision in question.
21. Any documentation concerning Fermin Rodriguez involving disciplinary actions, demerits, reprimands or incidents indicating less than satisfactory job performance.
22. All manuals, instructions, guidelines, directives, or memoranda concerning the performance or execution of the position held by Fermin Rodriguez at the time of the collision in question.
23. All records, notes, files, memoranda, or other similar documentation indicating an awareness on your part that Fermin Rodriguez was an unsafe driver.
24. All documents relating to reservation of rights or denial of coverage on the part of any insurance carrier for any of the named defendants with respect to this claim.
25. If you contend that you had a good faith belief to reasonably anticipate that there was a substantial chance that litigation would ensue on behalf of Plaintiff prior to the date you received notice of this lawsuit, please produce all correspondence, memoranda, statements, tape recordings, transcripts of tape recordings, wire reports, investigation reports, close-out reports, summaries or any other documents, as well as any other tangible things that you contend showed an outward manifestation that would indicate that there was a substantial chance that litigation would ensue.
26. Any reports, memoranda, documents or materials of any type which specifically indicate a date or occurrence on which you rely for any contention that you had a good faith belief to reasonably anticipate that there was a substantial chance that litigation would ensue concerning any injury or damages claimed on behalf of Plaintiff.
27. Any insurance policies that provide, or may provide, coverage for the collision in question.
28. Any reservation of rights letters or non-waiver agreements.
29. Any cell phone bills that would show whether or not Fermin Rodriguez was using a cell phone on the date of the wreck. This request includes, but is not limited to, cell phone bills for the day of the wreck.
30. All cell phone bills and records for any cell phone used by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after

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the wreck.

31. Provide all GPS and other electronic data and records, including but not limited to all Qualcomm Satellite Communication tracking information showing the location of the truck in the incident at issue in this lawsuit for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
32. All expense receipts and reports submitted by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
33. All incident reports generated by Fermin Rodriguez or Autotransportes Varela Davila SA De CV regarding the collision at issue in this lawsuit.
34. If, during the time period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck, Fermin Rodriguez drove a truck and/or trailer different than the ones at issue in this lawsuit, provide all GPS and other electronic data and records, including but not limited to all Qualcomm Satellite Communication and OmniTRACS tracking information showing the location of the truck and trailer driven by Fermin Rodriguez for that time period.
35. Fermin Rodriguez's log books for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
36. Autotransportes Varela Davila SA De CV's complete driver qualification file on Fermin Rodriguez.
37. All personnel files, accident files, and other files and documents that Autotransportes Varela Davila SA De CV maintains or possesses regarding Fermin Rodriguez.
38. All fuel receipts, bills of lading, weigh tickets, and toll receipts for any vehicle operated by Fermin Rodriguez during the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
39. All Qualcomm records and data regarding any vehicle operated by Fermin Rodriguez, and any communications to and from Fermin Rodriguez, for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
40. All documents and data that shows the speed, location, ignition status, brake status, acceleration, deceleration, sudden stops, and other information regarding any vehicle operated by Fermin Rodriguez during the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck. The scope of this request includes, but is not limited to, "black box" data, crash data recorders, OmniTRACS data, Qualcomm data, GPS data, XATA data, JETT-Track, DriveOk, FleetMatics, Fleet Management Solutions, Fleetilla, Shadow Tracker, Trimble, and any other data source.
41. All monthly log summary sheets for Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
42. All notice of logging violations for Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
43. The accident register for Autotransportes Varela Davila SA De CV.
44. All safety performance history records regarding Fermin Rodriguez.

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45. All driver's vehicle inspection reports completed by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
46. All pretrip check lists completed by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
47. The vehicle accident kit issued to Fermin Rodriguez.
48. An exemplar blank vehicle accident kit used by Autotransportes Varela Davila SA De CV.
49. All dispatch and trip reports regarding any vehicle operated by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
50. All trip cost report envelopes for any vehicle operated by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
51. All OmniTRACS data regarding any vehicle operated by Fermin Rodriguez for the period starting one hundred eighty (180) days before the wreck and ending fourteen (14) days after the wreck.
52. Copies of all documents obtained by deposition on written question or subpoena.
53. All documents regarding any audits or examinations performed of Autotransportes Varela Davila SA De CV by any state or federal agency, including but not limited to any state department of transportation, any state department of motor vehicle, the U.S. Department of Transportation, and the Federal Motor Carrier Safety Administration.
54. Please produce the tractor and trailer involved in the subject incident for inspection by Plaintiff, Plaintiff's counsel, and any retained experts or investigators. THE VEHICLE INVOLVED IN THE SUBJECT INCIDENT, INCLUDING ALL TRUCKS, TRACTORS, AND TRAILERS, ARE CRITICAL EVIDENCE. PLEASE DO NOT MOVE, ALTER, REPAIR, DESTROY, OR OTHERWISE DISPOSE OF ANY VEHICLE, TRUCK, TRACTOR, OR TRAILER UNTIL PLAINTIFF HAS HAD AN OPPORTUNITY TO INSPECT AND PHOTOGRAPH THE SAME.
55. All text messages from Fermin Rodriguez to Autotransportes Varela Davila SA De CV and/or any employee, dispatcher, manager, driver, contractor, safety director, or other person associated with Autotransportes Varela Davila SA De CV for the 180 days preceding the wreck, including the day of the subject wreck.
56. All text messages sent Fermin Rodriguez from Autotransportes Varela Davila SA De CV and/or any employee, dispatcher, manager, driver, contractor, safety director, or other person associated with Autotransportes Varela Davila SA De CV for the 180 days preceding the wreck, including the day of the subject wreck.
57. All e-mails messages from Fermin Rodriguez to Autotransportes Varela Davila SA De CV and/or any employee, dispatcher, manager, driver, contractor, safety director, or other person associated with Autotransportes Varela Davila SA De CV for the 180 days preceding the wreck, including the day of the subject wreck.
58. All e-mails messages sent to Fermin Rodriguez from Autotransportes Varela Davila SA

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De CV and/or any employee, dispatcher, manager, driver, contractor, safety director, or other person associated with to Autotransportes Varela Davila SA De CV for the 180 days preceding the wreck, including the day of the subject wreck.

59. All e-mails, text messages, and other communications between Fermin Rodriguez and any broker, shipper, or receiver for the 180 days preceding the wreck, including the day of the subject wreck.
60. For each cell phone, iPad, tablet, or other mobile device present in the tractor at the time of the incident, all location data stored in the device for the time period for the 180 days preceding the wreck, including the day of the subject wreck.
61. For each cell phone, iPad, tablet, or other mobile device present in the tractor at the time of the incident, please produce all data that shows whether any apps were in use during time period for the 180 days preceding the wreck, including the day of the subject wreck.
62. For each cell phone, iPad, tablet, or other mobile device present in the tractor at the time of the incident, all data that shows whether Fermin Rodriguez was using the device or making any inputs in the device for the 180 days preceding the wreck, including the day of the subject wreck.
63. Please produce any cell phone, iPad, tablet, or other mobile device in the tractor at the time of the crash for a forensic examination and download. THESE ITEMS ARE CRITICAL EVIDENCE. PLEASE DO NOT USE, ALTER, REPAIR, DESTROY, CLEAR/DELETE/ERASE THE HISTORY OR MEMORY, OR OTHERWISE DISPOSE OF ANY OF THESE ITEMS UNTIL PLAINTIFF HAS HAD AN OPPORTUNITY TO INSPECT AND DOWNLOAD DATA FROM THE SAME.
64. Any and all drive cam, dash cam, or in-cab video footage for the day of the subject wreck.
65. If any video, data and/or communications of any kind is available (whether or not downloaded or retrieved) from the Defendants' involved Tractor-Trailer or any part or system from the Defendants' involved Tractor-Trailer (e.g., this includes, without limitation, any engine control module (ECM), event data recorder (EDR/CDR), airbag control module (ACM), Sensing Diagnostic Module (SDM), drive train or transmission control unit, brake control module, power steering unit, electronic onboard recorder (EOBR) Electronic Logging Device (ELD), Collision Avoidance System (CAS), Telematics system, Critical Event Reporting System, Lane Departure System, Dash Cam (or other video devices), GPS system, truck or trailer tracking system, system that allows communication between drivers and dispatchers, etc), please produce both the printout of the data and the data file in its original format. This request is intended to cover data for as long as it was recorded before during and after the Subject Collision.
66. Produce copies of any operator's manual or other guide related to any of the systems and devices in or on the Defendants' involved Tractor-Trailer that have the capability of monitoring, capturing, recording and/or transmitting any video, data and/or communications of any kind (this includes, without limitation, any engine control module (ECM), event data recorder (EDR/CDR), airbag control module (ACM), Sensing Diagnostic Module (SDM), drive train or transmission control unit, brake control module, power steering unit, electronic onboard recorder (EOBR) Electronic Logging Device (ELD), Collision Avoidance System (CAS), Telematics system, Critical Event Reporting System, Lane Departure System, Dash Cam (or other video devices), GPS system, truck or trailer tracking system, system that allows communication between drivers and dispatchers, etc).

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67. Produce copies of any and all communications of any kind between Autotransportes Varela Davila SA De CV and any third party related to any attempts to download or otherwise obtain and/or preserve any video, data and/or communications from the Defendants' involved Tractor-Trailer related to the Subject Collision.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation be issued and Defendants be served, and upon trial on the merits the Court enter judgment for Plaintiff and against Defendants, jointly and severally, for actual damages, together with prejudgment interest, postjudgment interest, and court costs.

Respectfully submitted,

/s/ Sonia M. Rodriguez
Texas Bar No. 24008466
COWEN | RODRIGUEZ | PEACOCK
6243 IH-10 West, Suite 801
San Antonio, Texas 78201
Telephone: (210) 941-1301
Facsimile: (956) 504-3674
E-Mail for Service: efilings@cowenlaw.com

CAUSE NO. C-4704-18-G

REYNALDO RODRIGUEZ
Plaintiff

§ IN THE DISTRICT COURT

V.

§ 370th JUDICIAL DISTRICT

AUTOTRANSPORTES VARELA
DAVILA SA DE CV AND
FERMIN RODRIGUEZ

Defendants

§ HIDALGO COUNTY, TEXAS

DEFENDANTS', AUTOTRANSPORTES VARELA DAVILA SA DE CV and
FERMIN RODRIGUEZ'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, AUTOTRANSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ, Defendants in the above numbered and entitled cause herein, and make and file their Original Answer, and for such Answer say as follows:

I.

Pursuant to the provisions of TEX.R.CIV.P. 92, Defendants deny each and every, all and singular, the allegations contained in Plaintiffs' Original Petition, say none of the same are true, and demand strict proof thereof by a preponderance of the evidence.

II.

Defendants object and specially except to Plaintiffs' Original Petition because it fails to specify the maximum amount of damages claimed. Defendants AUTOTRANSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ hereby request the Court require Plaintiff REYNALDO RODRIGUEZ to replead specifying the maximum amount of damages claimed.

III.

Pleading by means of affirmative defense, Defendants AUTOTRANSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ plead contributory negligence and would show

DEFENDANTS', AUTOTRANSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ'S
ORIGINAL ANSWER - Page 1

EXHIBIT

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that Plaintiff's REYNALDO RODRIGUEZ alleged damages, if any, were the direct and proximate result of and contributed to by Plaintiff REYNALDO RODRIGUEZ's own negligence or the negligence of third parties over whom Defendants had no control. Accordingly, Defendants invoke the legal doctrine allowing a credit against the Judgment, if any, ultimately rendered in this matter for that degree or percentage of fault or cause attributed by the Jury to parties other than Defendants AUTOTRSPORTES VARELA DAVILA SA DE CV AND FERMIN RODRIGUEZ.

IV.

Recovery, if any, is limited to medical expenses "actually paid or incurred" by Plaintiff, not merely those alleged to be reasonable and necessary. *See Tex.Civ.Prac. & Rem. Code § 41.0105.*

V.

For further answer herein, if such be necessary, and in the alternative, Defendants AUTOTRSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ would show unto the Court and jury that recovery made by Plaintiff which include as a source or component thereof, alleged lost earnings, if any, must be net of income taxes and the Court is required to instruct the jury as to the tax consequences of any recovery of compensatory damages. *See Tex.Civ.Prac. & Rem. Code § 18.091.*

VI.

Defendants AUTOTRSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ respectfully request that a court reporter attend all sessions of court in connection with this case, and that said court reporter take full notes of all testimony offered, together with any objections, rulings and remarks of the Court and exceptions thereto and such other proceedings as may be needed or requested by said Defendants. *See Christie v. Price, 558 S.W. 2d 922 (Tex. Civ. App. – Texarkana 1977, no writ)*

VII.
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendants AUTOTRSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ, pray that Plaintiff take nothing by his suit and that Defendants recover costs, and for such other and general relief as the Court may deem appropriate in the interest of justice and equity.

Respectfully submitted,

CHAVES, OBREGON & PERALES, L.L.P.
802 N. Carancahua, Suite 2100
Corpus Christi, TX 78470
(361) 884-5400
(361) 884-5401 (facsimile)

By: /s/ Douglas E. Chaves
DOUGLAS E. CHAVES
State Bar No. 04161400
AIDAN PERALES
State Bar No. 24027604
ATTORNEYS FOR DEFENDANTS
AUTOTRSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been served upon all counsel of record to this proceeding by the manner indicated below, on January 18, 2019.

/s/ Douglas E. Chaves

Douglas E. Chaves

Via eServe

Sonia M. Rodriguez
COWEN RODRIGUEZ PEACOCK
6243 IH-10 West, Suite 801
San Antonio, Texas 78201
Telephone: 210/941-1301
Facsimile: 956/504-3674

Attorney for Plaintiffs

CAUSE NO. C-4704-18-G

REYNALDO RODRIGUEZ	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
	§	
V.	§	370 th JUDICIAL DISTRICT
	§	
AUTOTRANSPORTES VARELA	§	
DAVILA SA DE CV AND	§	
FERMIN RODRIGUEZ	§	
<i>Defendants</i>	§	HIDALGO COUNTY, TEXAS

DEFENDANTS' NOTICE TO COUNSEL OF FILING REMOVAL

TO: REYNALDO RODRIGUEZ, Plaintiff, by and through her attorney of record, Sonia M. Rodriguez, COWEN RODRIGUEZ PEACOCK, 6243 IH-10 West, Suite 801, San Antonio, Texas 78201, Telephone: 210/941-1301, Facsimile: 956/504-3674

Please take notice that on the 22ND day of January, 2019, AUTOTRANSPORTES VARELA DAVILA SA DE CV and FERMIN RODRIGUEZ, Defendants in the above-styled and numbered cause, filed in the United States District Court for the Southern District of Texas, McAllen Division, a Notice of Removal of the above-styled and numbered cause to said United States District Court from the 370th District Court of Hidalgo County, Texas. A copy of the Notice of Removal, without its exhibits, is attached hereto and served herewith.

Notice is further given that on the 22ND day of January, 2019, the above named Defendants filed a copy of said notice with the District Clerk for the 370th District Court of Hidalgo County, Texas, as required by law.

Respectfully submitted,

CHAVES, OBREGON & PERALES, L.L.P.
802 N. Carancahua, Suite 2100
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(361) 884-5400
(361) 884-5401 (facsimile)

By: /s/ Douglas E. Chaves
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Federal Bar No.1895
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Aidan Perales
State Bar No. 24027604
Federal Bar No. 27471
aperales@crlawfirm.com

**ATTORNEY-IN-CHARGE FOR
DEFENDANTS, AUTOTRSPORTES
VARELA DAVILA DE CV and FERMIN
RODRIGUEZ**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been served upon all counsel of record to this proceeding by the manner indicated below, on this the 22ND Day of January, 2019.

/s/ Douglas E. Chaves
DOUGLAS E. CHAVES

Via eServe

Sonia M. Rodriguez
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Attorney for Plaintiff

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REGISTER OF ACTIONS

CASE NO. C-4704-18-G

**Reynaldo Rodriguez VS. Autotransportes Varela Davila SA De CV and
Fermin Rodriguez**

\$
\$
\$
\$
\$

Case Type: **Injury or Damage - Motor Vehicle (OCA)**
Date Filed: **12/19/2018**
Location: **370th District Court**

PARTY INFORMATION

Defendant **Autotransportes Varela Davila SA De CV**

Attorneys

Defendant **Rodriguez, Fermin**

Plaintiff **Rodriguez, Reynaldo**

MICHAEL R. COWEN
Retained
210-941-1301(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

12/19/2018 **Original Petition (OCA)**
(WITH DISCOVERY)

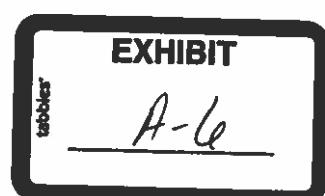
01/02/2019 **Citation**

Autotransportes Varela Davila SA De CV Rodriguez, Fermin	Served Returned	01/02/2019 01/02/2019
	Served Returned	01/09/2019 01/14/2019

01/02/2019 **Citation Issued**

FINANCIAL INFORMATION

Defendant Autotransportes Varela Davila SA De CV Total Financial Assessment Total Payments and Credits Balance Due as of 01/18/2019		2.00 2.00 0.00
01/03/2019	Transaction Assessment	2.00
01/03/2019	Efile Payments from TexFile	Receipt # DC-2019-000461
		Autotransportes Varela Davila SA De CV
		(2.00)
Plaintiff Rodriguez, Reynaldo Total Financial Assessment Total Payments and Credits Balance Due as of 01/18/2019		359.00 359.00 0.00
12/19/2018	Transaction Assessment	359.00
12/19/2018	Efile Payments from TexFile	Receipt # DC-2018-098363
		Rodriguez, Reynaldo
		(359.00)



Index of Parties and Counsel

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Attorney for Plaintiff

EXHIBIT

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